

MILPERSMAN 1050-340

MANDATORY APPELLATE LEAVE

Responsible Office	NAMALA	Phone:	DSN 325-0100 COM (202) 685-0100 FAX 325-0606
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References	(a) NAVMED P-117, Manual of the Medical Department (b) Uniform Code of Military Justice (c) OPNAVINST 5800.9 (d) NAVSO P-6034, Joint Federal Travel Regulations, Volume I (e) SECNAV M-5510.30, Department of the Navy Personnel Security Program (f) NAVSUP Publication I, Volume II, Naval Supply Systems Command Manual, Supply Ashore (g) BUPERSINST 1750.10B (h) Defense Joint Military System Procedures Training Guide (DJMS PTG)
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1. **Discussion.** Once the convening authority (CA) has approved an unsuspended punitive discharge or dismissal and all confinement (if any) has been completed, the member may be placed on mandatory appellate leave by the officer exercising court-martial jurisdiction over the member. In a majority of circumstances, appellate leave is appropriate; however, the following factors should be considered prior to directing to mandatory appellate leave:

- a. The quality of the member's service record.
- b. The type and severity of offense(s).
- c. The commanding officer's (CO's) recommendation, if applicable.
- d. The staff judge advocate/legal officer's recommendation.
- e. Whether the member has demonstrated a likelihood of productive and beneficial service to the Navy by remaining on active duty pending appellate review.

f. Any hardship or other adverse consequences which the member may experience if required to take mandatory appellate leave.

g. Any other pertinent information that the member considers appropriate.

h. Best interest of the service (BIOTS).

2. **Procedures**. Follow the steps below if mandatory appellate leave is directed.

Step	Action
1	A member may not be placed on appellate leave until DNA is obtained, forwarded, and accepted by U.S. Army Criminal Investigation Laboratory (USACIL). If convicted of a qualifying military offense (QMO), any offense under reference (b) punishable by a sentence with confinement of more than 1 year (regardless of sentence imposed), ensure DNA sample is collected, forwarded to, and accepted by USACIL per reference (c).
2	Complete separation physical (including HIV test) prior to commencement of appellate leave. See MILPERSMAN 1900-808 and reference (a).
3	Offer member formal inpatient treatment prior to separation if diagnosed as drug and/or alcohol dependent. See MILPERSMAN 1910-800. NOTE: If member accepts treatment, appellate leave cannot commence until treatment is completed or terminated. Ensure member's acceptance/non-acceptance is documented in the service record.
4	Counsel member on right to petition the Naval Clemency and Parole Board (NCPB) using NAVSO 5815/4 (5-81), Waiver of Clemency Review or NAVSO 5815/2 (Rev. 8-80) Request for Restoration/Clemency. A copy of the document must be filed in the service record. NOTE: Waiver of Clemency Review document is not required for personnel with sentence adjudged on or after 5 November 1993 if approved confinement is less than 12 months .

Step	Action
5	<p>Counsel member regarding shipment of personal property and/or household goods (HHG). Eligible members must submit a written request to the General Court Martial Convening Authority (GCMCA)/Special Court Martial Convening Authority (SPCMCA) for approval per reference (d). Property should not be transferred to a Navy storage facility.</p> <p>For members stationed in continental United States (CONUS) without family members, HHG shipment is not authorized under reference (d), para. U5317.</p> <p>For members with family members stationed in CONUS, travel and HHG shipment may be authorized at the discretion of the CA if deemed in the best interest of the member or their family and the United States (see reference (d), para. U5370-H).</p> <p>For members stationed outside CONUS, family members' travel and HHG shipment will be authorized or approved to the home of record when the general court-martial (GCM) authority determines such to be in the best interest of the Government (see reference (d), paras. U5370-B2 and U5240-F).</p>
6	Revoke member's security clearance per reference (e).
7	Revoke member's private vehicle base decal.
8	Confiscate all Government-issued clothing, uniform or civilian, and all property of the Government except one overcoat, if needed, as provided in reference (f), para. 25940.
9	Confiscate identification (ID) card(s) of member and dependents.
10	Issue new ID cards to member and dependents with an expiration date of 6 months from date of issue. Successive cards may be reissued for up to 3 months until discharge is affected. Contact Navy and Marine Corps Appellate Leave Activity (NAMALA) per reference (g).
11	Have member read, initial, and sign Appellate Leave Statement of Understanding (see MILPERSMAN 1050-370). File original in service record and provide a copy to the member.

Step	Action
12	Verify service record pages for completeness and accuracy. Enter appropriate entry to document action.
13	Provide member with copy of NAVCOMPT 3065 (2-83), Leave Request Authorization Form. File a copy in the service record.
14	<p>Update Navy Standard Integrated Personnel System (NSIPS) Transient Tracking on member as applicable; this may include</p> <ul style="list-style-type: none"> • Transient - General (accounting category code (ACC), ACC Effective Date, Transient Tracking code, etc.); • Legal Information (Disciplinary Action, Confinement, Appellate Leave information); and • Remarks as appropriate.
15	<p>Change ACC to 393.</p> <p>NSIPS activities use Transient Tracking to change ACC to 393.</p>
16	<p>To change duty status code (DSC) to 136, submit NSIPS leave transaction.</p> <p>NSIPS activities use Leave, Leave Create, Absence Type "R" (Start Appellate Leave), with days granted 300, as per reference (h), para. 10255. If the member requests to be paid for all accrued leave, terminate all pay and allowances including selected reenlistment payments; refer to reference (h), para. 10255.</p>
17	<p>Drop member from strength. All personnel placed on appellate leave, mandatory or voluntary, will be administratively dropped from Navy Strength at the time appellate leave is executed without regard to status CA's action.</p> <p>NSIPS activities use Losses, Admin Loss, Use, Admin Loss - Create; after this is released, DSC will change from 136 to 143 (Active Duty, Admin Punitive Discharge, Drop from Strength).</p>